

## **REMARKS**

Applicants respectfully request reconsideration of the present application in view of the foregoing amendments and in view of the reasons that follow.

Claims 1, 10, and 17 are currently being amended.

This amendment adds, changes and/or deletes claims in this application. A detailed listing of all claims that are, or were, in the application, irrespective of whether the claim(s) remain under examination in the application, is presented, with an appropriate defined status identifier.

After amending the claims as set forth above, claims 1-4, 6-13, 15-20, 22, and 23 are now pending in this application.

### **Withdrawal of Finality of Rejection**

In light of the previous Examiner's mistake in the previous Office Action (referring to layer 104 in U.S. Patent No. 6,399,496 B1 (Edelstein et al.) instead of layer 108) and that the new rationale for rejection made by the current Examiner was not necessitated by Applicant's amendment, Applicants respectfully request withdrawal of the finality of the rejection. See MPEP 706.07(a).

### **Rejections Under 35 U.S.C. § 103**

#### **Claims 1-3, 6-8, 10, 13, 15 and 16-20**

On page 2 of the Office Action, Claims 1-3, 6-8, 10, 13, 15 and 16-20 are rejected under 35 U.S.C. § 103(a) as being unpatentable over U.S. Patent No. 6,159,845 (Yew et al.), in view of U.S. Patent No. 6,399,496 B1 (Edelstein et al.) and U.S. Patent No. 6,749,699 B2 (Bogel et al.). Applicants respectfully traverse the rejection.

In the Office Action on page 5, the Examiner states with respect to Applicants' Arguments:

Applicant argues that Yew et al. do not teach depositing an insulating layer after the etch stop layer is deposited over the etch stop layer, because the examiner indicated that the insulating layer is layer 104 and the etch stop layer is layer 106, and layer 104 is not formed over layer 106.

It appears that the previous examiner made a typographical error since the insulating layer should be indicated as layer 108. Layer 108 is formed over layer 106, and thus Yet et al. teach depositing an insulating layer 108 after the etch stop layer 106 is deposited over the etch stop layer, as claimed.

Note that the broad recitation of the claim does not require the etch stop layer to be in direct contact with the first conductive layer.

However, Yew et al. does not disclose, suggest, or teach depositing an etch stop layer in direct contact with the first conductive layer. The Figures and the text of Yew et al. clearly show that etch stop layer 106 is not directly in contact with a conductive layer. This feature is required in all the pending claims.

In addition to Yew et al., neither Edelstein et al. nor Bogel et al. disclose, suggest, or teach "depositing an etch stop layer over a first conductive layer, wherein the etch stop layer is in direct contact with the first conductive layer." Thus, the combination of Yew et al., Edelstein et al., and Bogel et al. do not disclose or suggest all the limitations of Claims 1-3, 6-8, 10, 13, 15, and 16-20. Accordingly, the rejection cannot be properly maintained. Applicants respectfully request withdrawal of the rejection.

Claims 4 and 22

On page 3 of the Office Action, Claims 4 and 22 are rejected under 35 U.S.C. § 103(a) as being unpatentable over Yew et al., in view of Edelstein et al. and Bogel et al., and further in view of U.S. Patent No. 6,440,849 B1 (Merchant et al.). On page 4 of the Office Action, Claims

9 and 23 are rejected under 35 U.S.C. § 103(a) as being unpatentable over Yew et al., in view of Edelstein et al. and Bogel et al., and further in view of U.S. Patent No. 6,380,083 B1 (Gross). Applicants respectfully traverse these rejections. Claims 4 and 9 depend from Claim 1 and are patentable for at least the same reasons as Claim 1. Claims 22 and 23 depend from Claim 17 and are patentable for at least the same reasons as Claim 17. Applicants request withdrawal of the rejections.

Claims 11 and 12

On page 4 of the Office Action, Claims 11 and 12 are rejected under 35 U.S.C. § 103(a) as being unpatentable over Yew et al., in view of Edelstein et al. and Bogel et al., and further in view of U.S. Patent No. 6,090,710 (Andricacos et al.). Applicants respectfully traverse the rejection. Claims 11 and 12 depend from Claim 10 and are patentable for at least the same reasons as Claim 10. Applicants request withdrawal of the rejection.

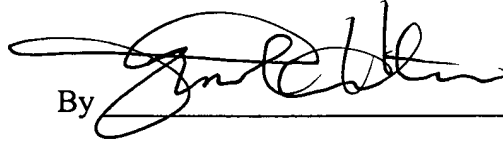
Applicants believe that the present application is now in condition for allowance. Favorable reconsideration of the application as amended is respectfully requested.

The Examiner is invited to contact the undersigned by telephone if it is felt that a telephone interview would advance the prosecution of the present application.

The Commissioner is hereby authorized to charge any additional fees which may be required regarding this application under 37 C.F.R. §§ 1.16-1.17, or credit any overpayment, to Deposit Account No. 50-2350. Should no proper payment be enclosed herewith, as by a check being in the wrong amount, unsigned, post-dated, otherwise improper or informal or even entirely missing, the Commissioner is authorized to charge the unpaid amount to Deposit Account No. 50-2350. If any extensions of time are needed for timely acceptance of papers

submitted herewith, Applicants hereby petition for such extension under 37 C.F.R. §1.136 and authorizes payment of any such extensions fees to Deposit Account No. 50-2350.

Respectfully submitted,

By 

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